

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

QUILLENS STEVENS,	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO. 24-CV-2467-JLS
	:	
PHILLY LIV BACON LLC, et al.,	:	
Defendants.	:	

ORDER

AND NOW, this 11th day of April, 2025, upon consideration of Defendants Philly Liv Bacon LLC d/b/a Wendy's and Yellow Cab Holdings LLC d/b/a Wendy's Motion to Dismiss the Amended Complaint (ECF No. 17), Plaintiff Quillens Stevens's Response thereto (ECF No. 19), and Defendants' Reply thereon (ECF No. 20), it is **ORDERED** that:

1. The Motion is **GRANTED IN PART** and **DENIED IN PART** for the reasons stated in the Court's accompanying Memorandum as follows:

- a. The Motion is **DENIED** as to Stevens's ADA retaliation claim; and
- b. The Motion is **GRANTED** as to Stevens's remaining claims. The Title VII retaliation, FMLA, and intentional infliction of emotional distress claims are **DISMISSED WITH PREJUDICE**. The ADA discrimination claim is **DISMISSED WITHOUT PREJUDICE**.

2. If Stevens believes that he can cure the defects in the ADA discrimination claim that the Court dismissed from this case without prejudice, he may file a second amended complaint within fourteen (14) days of the date of this Order. Any second amended complaint must identify the defendants in the caption of the second amended complaint and must state all the factual bases for Stevens's claims against the defendants. The second amended complaint shall be a complete document that does not rely on the initial Complaint, the Amended Complaint, or other papers

filed in this case to state a claim. **If Stevens files a second amended complaint and still intends to proceed on the retaliation claims the Court did not dismiss, he must replead those claims including all of the facts supporting those claims or they will not be considered part of this lawsuit.**¹ When drafting his amended complaint, Stevens should be mindful of the Court's reasons for dismissing the claims in his initial Complaint and Amended Complaint as explained in the Court's Memoranda.

3. If Stevens files a second amended complaint, Defendants shall respond in the time frame set forth in Federal Rule of Civil Procedure 15(a)(3).

4. If Stevens does not file a second amended complaint in response to this order, the case will proceed only on Stevens's Title VII and/or ADA retaliation claims. If Stevens does not wish to file a second amended complaint, he may submit a notice to that effect for faster processing.

5. If Stevens does not file a second amended complaint, Defendants shall file an answer to the remaining claims within fourteen (14) days of the date of Steven's notice that he seeks to proceed on his remaining claims or the expiration of the time for him to file a second amended complaint, whichever is earlier.

BY THE COURT:

/s/ Jeffery L. Schmehl

JEFFREY L. SCHMEHL, J.

¹ Stevens should note that "an amended pleading supersedes the original pleading and renders the original pleading a nullity." *Garrett v. Wexford Health*, 938 F.3d 69, 82 (3d Cir. 2019). In other words, "the most recently filed amended complaint becomes the operative pleading." *Id.*